

National Mobile Communications Corp.

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January 31, 2002

Via Electronic Filing

Magalie Roman Salas, Secretary
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554

Re: CC Docket No. 02-7
Application by Verizon for Authorization under Section 271 of the
Communications Act to Provide In-Region, InterLATA Service in the State of
Vermont

Dear Ms. Salas:

Forwarded herewith are: (1) Comments of National Mobile Communications Corp, d/b/a SoVerNet Communications; and (2) Affidavit of J. Barton Elliott. Hard copies will be sent to you via Federal Express.

Sincerely,

Cynthia Heslen, Esq.

cc: Common Carrier Bureau (12 hard copies)
Qualex International (hard copy)
J. Veach (email only)
G. Remondino (email only)
K. Trainor (hard copy and email)
P. Bluhm (hard copy and email)

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of the Application by Verizon)
for Authorization under Section 271 of the) CC Docket No. 02-7
Communications Act to Provide In-Region,)
InterLATA Service in the State of Vermont)

**COMMENTS OF NATIONAL MOBILE COMMUNICATIONS CORP.
d/b/a SOVERNET COMMUNICATIONS**

January 31, 2002

TABLE OF CONTENTS

	PAGE
<u>I. SUMMARY OF ARGUMENT</u>	<u>2</u>
II. INTEREST AND EXPERTISE OF SOVERNET	2
III. THE PUBLIC INTEREST REQUIRES THAT COMPETITION MUST EXIST BEFORE VERIZON IS ALLOWED TO ENTER THE LONG DISTANCE MARKET	3
IV. CONCLUSION	4

ATTACHED EXHIBIT

AFFIDAVIT OF J. BARTON ELLIOTT

I. SUMMARY OF ARGUMENT

National Mobile Communications Corp. d/b/a SoVerNet Communications (“SoVerNet” herein), believes that the application of Verizon to provide interLATA long distance telephone service in Vermont should be denied. The local market in Vermont has not been irreversibly opened to local competition. Verizon’s application is premature and does not meet the requirements of the Telecommunications Act of 1996.

II. INTEREST AND EXPERTISE OF SOVERNET

National Mobile Communications Corp. d/b/a SoVerNet Communications (“SoVerNet” herein)¹, is a small start-up Competitive Local Exchange Carrier (CLEC) doing business in Vermont. Affidavit of J. Barton Elliott (“JBE Aff.”) ¶ 3.

All of SoVerNet’s voice services are provided over SoVerNet’s own network of facilities. SoVerNet is a facilities-based CLEC owning a Siemens EWSD (class 4/5) switch. That portion of the SoVerNet network that physically delivers service to our customers’ premises is composed of cable facilities (“loops”) leased from Verizon on an “unbundled network element” basis. The company is not a reseller of Verizon telephone services. JBE Aff. ¶ 3.

While SoVerNet hopes to offer telephone services statewide in the Verizon footprint, it is unlikely to attain this goal for at least another two years. JBE Aff. ¶ 5.

SoVerNet recently completed its first phase of colocation into Verizon central offices. It is colocated and able to provide local and long distance telephone service in eight Vermont communities: Burlington, Essex Junction, Winooski, Montpelier, Barre, Rutland, Bennington and Brattleboro. Testing has been completed and SoVerNet has begun limited marketing of its services in these communities. It expects to spend approximately \$10,000 on print and radio advertising for residential services through June 2002.² JBE Aff. ¶¶ 4, 6.

SoVerNet has colocation applications being provisioned by Verizon for colocation into an additional eight Verizon central offices. We anticipate being fully provisioned and offering services in six additional communities by the end of March 2002 – Bellows Falls, Manchester, Middlebury, Woodstock, St. Johnsbury and White River Junction. We

¹ SoVerNet, Inc. was founded in 1995 in Bellows Falls, Vermont to focus upon the developing Internet service provider (ISP) market. In October 2000, SoVerNet, Inc. acquired National Mobile Communications Corp. d/b/a SoVerNet Communications. Today, the company is an Integrated Communications Provider (ICP), offering a full range of integrated telecommunications products including local and long distance telephone service, Internet services, hosting, dial-up and high-speed data access, among other services. JBE Aff. ¶ 2.

² This advertising includes both the data products of SoVerNet, Inc. and the voice products of SoVerNet Communications. JBE Aff. ¶ 6.

hope to be able to offer services in Quechee by the end of second quarter of this year, and in Putney by the end of the third quarter of this year.³ JBE Aff. ¶ 5.

III. THE PUBLIC INTEREST REQUIRES THAT COMPETITION MUST EXIST BEFORE VERIZON IS ALLOWED TO ENTER THE LONG DISTANCE MARKET

Although there are numerous points we could make in opposition to the application, our limited resources require that we focus on one crucial point: the exceptionally low level of actual competition in local residential telephone service in Vermont. This is not a direct checklist matter but rather relates to the evaluation the FCC must make to determine whether the Verizon's in-region long distance entry would be in the public interest.

The Telecommunications Act of 1996 requires that local telephone markets be irreversibly open to competition before Verizon can start offering long distance service to customers in Vermont. In Vermont, local markets are not open to competition, let alone irreversibly open.

We are aghast that Verizon may rely solely or largely on this company's presence in the local residential market to support a showing of local competition. SoVerNet is uniquely positioned to understand just how uncompetitive the local market is in Vermont. As far as we know, SoVerNet is the only CLEC in Vermont offering local residential phone service over UNEs.⁴ JBE Aff. ¶ 7. At this time, we are a trifling competitor for Verizon. As of January 30, 2002, SoVerNet had 78 local residential lines actively provisioned. JBE Aff. ¶ 8. **As far as we know, that is the full extent of actual competition in Vermont in the facilities-based local residential telephone market: 78 lines.** This is a far cry from the robust competition that should be present to support RBOC entry into the long distance market. The extent of local residential telephone competition in Vermont can only be characterized as *de minimis*, at best.

The simple fact that only 78 local residential lines in Verizon territory in Vermont are provisioned by a competitor demonstrates that, despite any paper showing of meeting the 14 point checklist of technical requirements, Vermont's local telephone market is not actually open to effective competition, and is certainly not irreversibly opened.

We understand that Verizon may meet the technical requirements of the 14-point checklist (although we do not concede the matter), but believe that such a showing alone is an insufficient test of whether Verizon's entry into the long distance market should occur at this time. A more robust showing of actual local residential competition is warranted before Verizon's entry should be allowed. We believe that Verizon's §271 application should be rejected as being prematurely filed.

³ SoVerNet will consider submitting additional colocation applications to Verizon after the first quarter of 2002. JBE Aff. ¶ 5.

⁴ We understand that another competitor may have offered residential local service as a reseller of services, but we are not certain whether this competitor is still in business. JBE Aff. ¶ 7.

The premature entry of Verizon into the long distance telephone market undermines the prospect for true competition in Vermont. If Verizon is allowed into the long distance market before its local market is actually irreversibly open, local competition will not develop. Consumers' interests are served when robust competition exists in both the local and the long distance markets. Granting Verizon's application now would harm Vermont consumers and diminish the prospect of actual, authentic telephone competition in Vermont.

IV. CONCLUSION

For the above reasons, SoVerNet urges the Commission to reject the application of Verizon to sell long distance service in Vermont.

Respectfully submitted,

Cynthia Heslen, Esq.
National Mobile Communications, Corp.
d/b/a SoVerNet Communications
P.O. Box 495
Bellows Falls, VT 05101
(802) 463-2111

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Inter-LATA Service in the State of Vermont)	

AFFIDAVIT OF J. BARTON ELLIOTT

I, J. Barton Elliott, state on oath and personal information:

1. I am the Chairman of the Board and CEO of National Mobile Communications Corp. which does business in Vermont under the trade name SoVerNet Communications.
2. I am also the Chairman of the Board and CEO of SoVerNet, Inc. which was founded in 1995 in Bellows Falls, Vermont to focus upon the developing Internet service provider (ISP) market. In October 2000, SoVerNet, Inc. acquired National Mobile Communications Corp. d/b/a SoVerNet Communications. Through this acquisition, SoVerNet, Inc. is an Integrated Communications Provider (ICP), offering a full range of integrated telecommunications products including local and long distance telephone service, Internet services, hosting, dial-up and high-speed data access, among other services.
3. National Mobile Communications Corp. d/b/a SoVerNet Communications is a small start-up registered CLEC doing business in Vermont. All of its voice services are provided over its own network of facilities. It is a facilities-based CLEC, owning a Siemens EWSD (class 4/5) switch. That portion of its network that physically delivers service to customers' premises is composed of cable facilities ("loops") leased from Verizon on an "unbundled network element" basis. The company is not a reseller of Verizon telephone services.
4. National Mobile Communications Corp. d/b/a SoVerNet Communications currently offers local and long distance voice services to residences and businesses in eight Vermont communities where it is collocated in Verizon central offices: Burlington, Essex Junction, Winooski, Montpelier, Barre, Rutland, Bennington and Brattleboro.
5. National Mobile Communications Corp. d/b/a SoVerNet Communications has colocation applications being provisioned by Verizon for colocation into an additional eight Verizon central offices. We anticipate being fully provisioned and offering services in six communities by the end of March 2002 – Bellows Falls, Manchester, Middlebury, Woodstock, St. Johnsbury and White River Junction. We hope to able to offer services

in Quechee by the end of second quarter of this year, and in Putney by the end of the third quarter of this year. We will consider submitting additional colocation applications to Verizon after the first quarter of 2002. We hope to offer telephone services statewide in the Verizon footprint, it is unlikely to attain this goal for at least another two years.

6. National Mobile Communications Corp. d/b/a SoVerNet Communications has limited finances to devote to advertising its residential ICP services (which includes voice services). It expects to spend approximately \$10,000 on print and radio advertising for residential services (both voice and data) through June 2002.

7. On information and belief, National Mobile Communications Corp. d/b/a SoVerNet Communications is the only Vermont CLEC offering local residential phone service over UNEs. On information and belief, another Vermont CLEC may have offered residential local service as a reseller of services, but I am not certain whether this competitor is still in business.

8. As of January 30, 2002, SoVerNet provided local residential telephone service to 78 customers in Vermont. This number was verified by both our billing system and E-911 database.

J. Barton Elliott

STATE OF VERMONT
WINDHAM COUNTY, S.S.

At the Town of Rockingham, Village of Bellows Falls, in said state and county, on this 30th day of January, 2002, J. Barton Elliott, who is known to me, personally appeared before me and made oath that the statements contained in this Affidavit are true to the best of his knowledge, except those stated on information and belief, and as to those he believes them to be true, and acknowledged the foregoing Affidavit signed by him, sealed and subscribed to by his free act and deed.

Laura Phillips, Notary Public
Commission expires: 02-10-03